

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 0:17-cv-01243-JRT-LIB

KENNETH W. NESS; ERVIN R.  
NESS; MARY L. NESS; THE STATE  
OF MINNESOTA; CAPITAL ONE  
BANK USA, NA; CAVALRY SPV 1  
LLC, AS ASSIGNEE OF FIA CARD  
SERVICES NA/BANK OF AMERICA,

Defendants.

**DECLARATION OF JOHN T. MILLER**

I, John T. Miller, declare that:

1. I am employed by the IRS as a Revenue Officer, and I work in St. Cloud, Minnesota.
2. This declaration is submitted in connection with the United States' Motion for Summary Judgment.
3. I have personal knowledge of the facts set forth in this declaration.
4. In my capacity as a Revenue Officer, I am assigned to assist in the collection of the unpaid federal income tax assessments against Kenneth W. Ness for tax years 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011 and 2012. I have reviewed and I am familiar with the IRS files associated with these liabilities. I am also familiar with the IRS's record-keeping practices.

5. In connection with my efforts to collect the unpaid federal income tax assessments referred to above, I obtained copies of the following documents from the Marshall County Recorder: contract for deed and addendum to contract for deed. True and correct copies of these documents are attached as Exhibits 1 and 2, with redactions made as required by Fed. R. Civ. P. 5.2.

6. In connection with my efforts to collect the unpaid federal income tax assessments referred to above, I received a letter from Ervin R. Ness and Mary L. Ness regarding their interest in the subject property. A true and correct copy of that letter is attached as Exhibit 3, with redactions made as required by Fed. R. Civ. P. 5.2.

7. True and correct copies of IRS Forms 4340 (Certificates of Assessments, Payments, and Other Specified Matters) for the tax years at issue are attached as Exhibits 4 through 12, with redactions made as required by Fed. R. Civ. P. 5.2.

8. According to the IRS Forms 4340, notices of the assessments against Kenneth W. Ness referred to above and demands for payment were sent to Kenneth W. Ness in accordance with law.

9. The IRS has filed notices of federal tax liens with the Marshall County Recorder for the assessments referred to above. True and correct copies of the notices of federal tax liens are attached as Exhibits 13, 14, and 15, with redactions made as required by Fed. R. Civ. P. 5.2.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 22, 2018, in St. Cloud, Minnesota.

s/ John T. Miller

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JOHN T. MILLER

Revenue Officer

Internal Revenue Service